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09/634,045	08/08/2000	Drew Eric Wingard	02998.P011	5608

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EXAMINER

THOMPSON, ANNETTE M

ART UNIT PAPER NUMBER

2825

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/634,045
Filing Date: August 08, 2000
Appellants: WINGARD ET AL.

MAILED
JUL 11 2005
GROUP 2800

Jeffery Scott Heilesen
For Appellants

EXAMINER'S ANSWER

This is in response to the appeal brief filed 29 December 2004.

Art Unit: 2825

(1) *Real Party in Interest*

A statement identifying the real party in interest as Sonics, Inc. is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The amendment after final rejection filed on 17 August 2004 has been entered.

(5) *Summary of Claimed Subject Matter*

The summary of claimed subject matter contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The Appellants' statement of the grounds of rejection is substantially correct. However, the subject of the instant appeal presented for review is not the rejection of claims 12-22 under 35 U.S.C. 103(a) as unpatentable over the prior art cited. Rather, the primary issue presented for review in this appeal is whether or not Appellants' Declaration Under 37 C.F.R. § 1.131 disqualifies the prior art of Blodget, U.S. Patent 6,510,546 as applied against Appellants' claims.

(7) *Claims Appendix*

The copy of the appealed claims contained in the Appendix to the brief is correct.

Art Unit: 2825

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

U.S. Patent 6,510,546 BLODGET 01- 21-2003 (filed 13 July 2000)

(9) Grounds of Rejection

The following ground of rejection is applicable to the appealed claims:

Claims 12-22 stand rejected under 35 U.S.C. 103(a) as unpatentable over Blodget, U.S. Patent 6,510,546. The Final office action of 19 April 2004 sets forth this rejection in toto.

(10) Response to Argument

In this Appeal, the primary issue argued by Appellants is whether or not Appellants' Declaration Under 37 C.F.R. § 1.131 is sufficiently meritorious to disqualify the Blodget patent, U.S. Patent 6,510,546, as prior art against Appellants' claims.

The 35 U.S.C. 102(b) Bar Inference is Withdrawn

Although Appellants' claims were never rejected under 35 U.S.C. 102(b), in the Advisory Action of 18 October 2004, Examiner asserted that Appellants' After-final submission on 20 August 2004 of the Declaration Under 37 C.F.R. § 1.131 raised questions regarding the 35 U.S.C. 102(b) bar to patentability based upon public use or sale. However, upon further review and consideration, any inference and questions relating to the 35 U.S.C. 102(b) bar to patentability based upon public use or sale is now hereby withdrawn.

**Appellants' 37 CFR 1.131 Declaration Is Insufficient
To Overcome The Blodget Prior Art**

Appellants' Declaration and exhibit submissions lack merit and are therefore insufficient to overcome the Blodget prior art. Appellants' exhibits include, inter alia, an Invoice, a Purchase Order, and a product manual, pursuant to the descriptions set forth in Appellants' Declaration Under 37 C.F.R. § 1.131, paragraphs five, six and seven respectively. Appellants' Declaration, asserting reduction to practice prior to the Blodget prior art filing date of July 13, 2000, states that embodiments of the claimed invention were part of a product sale, as evidenced by the Invoice and Purchase Order exhibits. Further, Appellants' Declaration asserts that Appellants' product manual discloses embodiments of the claimed invention throughout the entire product manual.

Examiner does not agree with Appellants' assertions. Despite Appellants' argument, Examiner finds no nexus between Appellants' claimed invention and Appellants' product manual, invoice, and purchase order. First of all, Examiner cannot identify where, if anywhere, in Appellants' product manual the limitations of Appellants' claims 12 thru 22 are disclosed. Second, although Appellants state that the SOC Integration Suite product includes embodiments of the claimed invention, the relation between Appellants' claimed subject matter and the contents of the SOC Integration Suite product that is the subject of the purchase order and invoice exhibits remains unknown and undisclosed. Appellants claims are directed to one embodiment and it is unknown whether the SOC Integration Suite product contains the specific embodiment

Art Unit: 2825

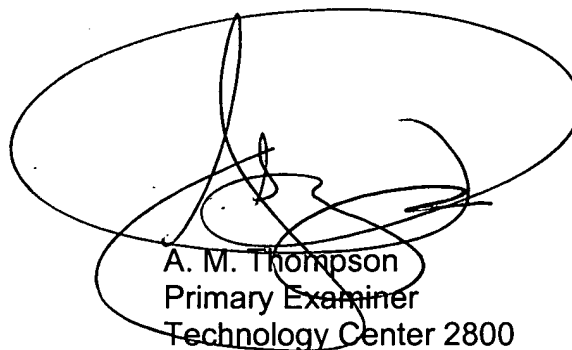
claimed by Appellants. Appellants have not established any nexus between Appellants claims and the specified SOC Integration Suite product.

In summary, Appellants' Declaration lack sufficient meritorious facts to antedate the Blodget prior art reference and this therefore precludes an affirmative determination that Appellants actually reduced the claimed invention to practice prior to the Blodget filing date of July 13, 2000.

Conclusion

Therefore, based at least on the foregoing, Examiner submits that Appellants' Declaration Under 37 C.F.R. § 1.131 does not obviate the rejection of claims 12-22 under 35 U.S.C. 103(a) as unpatentable over Blodget. Having considered all of Appellants' arguments, Examiner respectfully requests that the Blodget reference be adjudged as valid prior art and accordingly, the rejection of claims 12-22 under 35 U.S.C. § 103(a) as unpatentable over Blodget be **affirmed**.

Respectfully submitted,



A. M. Thompson
Primary Examiner
Technology Center 2800

27 June 2005

Art Unit: 2825

Conferees

Darren Schuberg, SPE

A stylized handwritten signature in black ink, consisting of a large 'D' and 'S' intertwined.

Matthew S. Smith, SPE

A handwritten signature in black ink, appearing to read 'Matt Smith' in a cursive style.

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